

REMARKS

In response to the Final Office Action mailed December 9, 2009, Applicants have amended claims 2-9, 11-13, and 15-25. Applicants also have re-written claim 1 as new claim 26. Claim 26 contains content corresponding to claim 1, but drafted in a revised format. Applicants further have added new claims 27-28. No new matter has been introduced by these amendments. Claims 2-28 remain pending in this application.

In the Final Office Action, the Examiner rejected claims 1-25 under 35 U.S.C. § 103(a) as allegedly being obvious over Wolfberg et al. (U.S. Patent No. 5,214,579, "*Wolfberg*") in view of Sullivan et al. (U.S. Patent No. 6,615,240, "*Sullivan*"), in further view of Albright (U.S. Patent No. 6,012,043, "*Albright*"), in further view of Farry et al. (U.S. Patent No. 6,069,629, "*Farry*"), and in further view of Official Notice.

Applicants respectfully traverse the Examiner's rejections and request reconsideration of the application and timely allowance of pending claims 2-28.

Section 103 Rejections

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the Examiner must provide rationales to support a conclusion of obviousness in this case by properly ascertaining the scope and content of the cited prior art. M.P.E.P. § 2141 (II) ("Office personnel must provide an explanation to support an obviousness rejection under 35 U.S.C. 103.") In addition, the Examiner must show that there are no significant differences between the teachings of the cited prior art references and the claims. (M.P.E.P. § 2141 (II, III) ("The gap between the prior art and the claimed invention may not be 'so great as to render the [claim] nonobvious to one reasonably skilled in the art.'") (internal citations omitted).) Furthermore, each of these

requirements must be found in the prior art – not in Appellants' own disclosure. See KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398; 82 USPQ2d 1385, 1397 (2007) ("[a] factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments relying on ex post reasoning".) Applicants respectfully traverse the Section 103(a) rejection of claims 1-25 because *Wolfberg*, *Sullivan*, *Albright*, *Farry* and Office Notice, taken alone or in combination, fail to support a prima facie case of obviousness.

For example, the subject matter of claim 1 (now re-written in different format as new claim 26) is directed to a method for providing a graphical user interface to a financial modeling system that includes, among other things, "receiving a user selection of a level of risk," "receiving a user selection of one or more risk events from a list of risk events," "displaying estimates of a probability and effect of an occurrence of the selected one or more risk events," "for a risk event among the selected one or more risk events, receiving a user specification of acceptance or rejection of an estimate associated with the risk event, and, if the user rejects the displayed estimate, receiving a user specification of a different estimate," and "incorporate[ing] the selected risk events" in the "automated coaching."

As admitted in the Final Office Action by the Examiner in analysis of claim 1, *Wolfberg* and/or *Sullivan* fail to teach the above-listed elements. (FOA, p. 3). In addition, the Final Office Action did not allege, nor do *Farry* and/or Office Notice teach, the above-listed elements. That leaves the *Albright* reference, which the Final Office Action relies on for its alleged disclosure of a system that "has 'information related to investment risk profile' which is [analogous] to 'risk modeling component,'" and asks

customer to provide the investment risk profile information "which is [analogous] to [the recitation of] 'selecting.'" (FOA, p. 8, citing to *Albright* at col. 8, ll. 49-69).

Contrary to the Examiner's assertion, the cited passage of *Albright* discloses only that a customer of the *Albright* system is asked to provide information related to "investment risk profile, i.e., the customer's ability to handle financial risk and the customer's willingness to take financial risk." (*Albright* at col. 8, ll. 49-57). Applicants respectfully submit that this disclosure does not teach or otherwise suggest "receiving a user selection of a level of risk," as recited in claim 26, for at least the reason that the *Albright* system does not provide a user with a list of risk events, nor "receiv[e] a user selection of one or more risk events from a list of risk events." Specifically, the *Albright* system receives information relating to the customer's ability to handle financial risk and the customer's willingness to take financial risk, which in no way constitutes providing a list of risk events to a user and "receiving a user selection one or more risk events from [the] list of risk events," as recited in claim 26. Consequently, the *Albright* system also fails to teach taking actions based on a selected risk event from a list of risk events, as also recited in claim 26. Thus, the Final Office Action fails to provide any reference or reasoning, and fails to supply a complete rationale to support a conclusion of obviousness with respect to the subject matter, as a whole, of claim 26.

Applicants respectfully submit that because *Wolfberg*, *Sullivan*, *Albright*, *Farry* and Office Notice all fail to disclose or suggest all the recited claim elements as the Final Office Action alleged, the Final Office Action did not properly ascertain the scope and content of the alleged prior art and the combination of those references cannot result in the invention of claim 26, as amended. Moreover, the undisclosed elements

represent significant differences between the teachings of the alleged prior art references and claim 26, as a whole, which render claim 26 nonobvious. For at least these reasons, the Office has not established a *prima facie* case of obviousness. Thus, independent claim 26 and claims 2-8, that depend therefrom, are in condition for allowance. Claims 2-8 are also allowable because they recite additional elements not taught nor suggested by the cited art.

Amended independent claims 9 and 18, while having scopes different than independent claim 26, include similar recitations to independent claim 26. Therefore, for at least the same reasons as set forth with respect to claim 26, claims 9 and 18, and claims 10-17 and 19-25 that depend from their respective independent claims, are also in condition for allowance. Dependent claims 10-17 and 19-25 are also allowable because they recite additional elements not taught nor suggested by the cited art.

Independent claims 27 and 28, while having scopes different than independent claim 26, include similar recitations to independent claim 26, such as "receiving a user selection of one or more risk events from a list of risk events," and "incorporate[ing] the selected risk events" in the "automated coaching." Therefore, for at least the same reasons as set forth with respect to claim 26, claims 27 and 28 are also allowable.

For at least the foregoing reasons, Applicants respectfully request that the Examiner withdraw the rejection under 35 U.S.C. § 103(a).

CONCLUSION

The Final Office Action makes statements characterizing the claims and the references. Applicants do not subscribe to any such characterizations, whether they are expressly mentioned in this response, or not.

In view of the foregoing remarks, Applicants submit that the amended claims 2-28, are not rendered obvious in view of the prior art references cited against this application. Applicants therefore request the Examiner's reconsideration of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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Dated: April 9, 2010

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